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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/206,782	12/07/1998	MICHAEL R. PEEVEY	32277.0100	5956

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EXAMINER

SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/206,782

Applicant(s)

PEEVEY, MICHAEL R.

Examiner

Cristina Owen Sherr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,8 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,8 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to applicant's amendment filed June 17, 2005. Claims 1 and 34 have been amended. Claims 4-5, 7, 9-33, and 35-39 have been canceled. Claims 1, 2, 3, 6, 8, and 34 are pending in this case.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 2, 3, 6, 8, and 34 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 3, 6, 8, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budike, Jr. et al (US 6,122,603).

5. Regarding claim 1, 34 –

Budike discloses a method for providing utility consumption data to a utility consumer over a network (e.g. col 1 ln 12-28), the method comprising the steps of: receiving metering data and operational status information from a utility meter located at a remote facility operated by said utility customer (e.g. col 28 ln 45-60), wherein said metering data is electronically and automatically transmitted over the network in substantially real time from said utility meter to a data processing system (e.g. col 8 ln

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30-45); calculating billing data using said metering data at said data processing system, wherein said calculating step calculates said billing data using:

(a) generation costs, (e.g. col 10 ln 10-25)

(b) transmission costs (e.g. col 10 ln 10-25), and

(c) distribution costs of said utility (e.g. col 10 ln 20-30);

storing said metering data and said billing data electronically at said data processing system (e.g. abstract); and

reporting said metering data and said billing data electronically from said data processing system to said utility customer over the network, said reporting step including the steps of providing a website on the network accessible by said utility customer; retrieving said metering data and said billing data from said database; and presenting said metering data and said billing data on said website (e.g. col 7 ln 35-50).

6. Budike does not disclose allowing said consumer to affect electronic funds transfer via a payment system in accordance with said billing data, however, payment through internet or other network is well-known in the art, and it would be obvious to a practitioner of ordinary skill in the art to adapt the teachings of Budike to include online payment in order to obtain a more user friendly and economical form of monitoring and paying for utility costs.

7. regarding claim 2 –

Budike discloses the method in accordance with claim 1, wherein said receiving step further comprises the step of polling said meter using an electronic communication medium (e.g. col 7 ln 50-col 8 ln 5).

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8. Regarding claim 3 –

Budike discloses the method in accordance with claim 2, wherein said polling step polls said meter using a toll-free telephone line (see e.g. col 7 ln 45-50), where a toll-free telephone line is not specifically disclosed, however, different networks are. It would be obvious to one of ordinary skill in the art to adapt Budike to include a toll free telephone line.

9. Regarding claim 6 –

Budike discloses the method in accordance with claim 1, wherein said receiving step receives metering data from said meter wherein said meter is suitably configured with a modem for connecting to an electronic data line (e.g. col 7 ln 45-50).

10. Regarding claim 8 –

Budike discloses the method in accordance with claim 1, wherein said storing step stores said metering data and said billing data in a computer database (e.g. abstract)

11. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

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12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Collins et al (US 6,553,418B1) disclose an energy information and control system.

14. Uggerud et al (US 6,529,839B1) discloses an energy coordination system.

15. Pitchford et al (US 6,327,541B1) discloses an electronic energy management system.

16. Sneeringer (US 6,618,709) discloses computer assisted and/or implemented process and architecture for web-based monitoring of energy related usage, and client accessibility therefor.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Primary Examiner